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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/397, 558	09/16/99	LAL	P PF-0527-1DIV

LEGAL DEPARTMENT
INCYTE PHARMACEUTICALS INC
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HM22/1026

EXAMINER
HARRIS, A

ART UNIT	PAPER NUMBER
1642	4

DATE MAILED: 10/26/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No. 09/397,558	Applicant(s) Lal et al.
Examiner Alana M. Harris, Ph. D.	Group Art Unit 1642

Responsive to communication(s) filed on _____.

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 0 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

Claim(s) 1-2, 4-5, 8, 14-18 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

Claim(s) _____ is/are allowed.

Claim(s) _____ is/are rejected.

Claim(s) _____ is/are objected to.

Claims 1-2, 4-5, 8, 14-18 are subject to restriction or election requirement.

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on _____ is/are objected to by the Examiner.

The proposed drawing correction, filed on _____ is approved disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All Some* None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) _____.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit:

DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1 and 2, drawn to a substantially purified polypeptide, classified in class 530, subclass 350.
 - II. Claims 4, 5 and 8, drawn to an isolated and purified polynucleotide, classified in class 536, subclass 23.1.
 - III. Claim 14, drawn to a purified antibody, classified in class 530, subclass 387.1.
 - IV. Claim 15, drawn to a purified agonist, classified in class 530, subclass 300.
 - V. Claim 16, drawn to a purified antagonist, classified in class 530, subclass 300.
 - VI. Claims 17 and 18, drawn to a method for treating or a preventing a neoplastic disorder or a reproductive disorder, classified in class 424, subclass 130.1.
2. The inventions are distinct, each from the other because of the following reasons:
Groups I-V are structurally and functionally different products which are made by different methods and have different uses. The examination of all groups would require different searches in the U.S. Patent Shoes and the scientific literature and would require the consideration of different patentability issues.

Art Unit:

Inventions of Group V and Group VI are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the antagonist of Group V can be used in *in vitro* diagnostic assays.

3. A telephone call was made to Diana Hamlet-Cox on October 18, 1999 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

Art Unit:

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alana M. Harris, whose telephone number is (703) 306-5880.



Nancy A Johnson
Primary Examiner